

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

• FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 2 — 0 1

2. STATE:

Texas

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES4. PROPOSED EFFECTIVE DATE
January 1, 2002

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

42 CFR 440.167 Personal Care Services

7. FEDERAL BUDGET IMPACT: See Attachment

a. FFY 2002 \$ -0-

b. FFY 2003 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

See Attachment

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

See Attachment

10. SUBJECT OF AMENDMENT: Amendment No. 620 modifies the Reimbursement Methodology for Primary
Home Care Services to add Consumer Directed Services (CDS) as a service delivery option.

11. GOVERNOR'S REVIEW (Check One):

- ☐
- GOVERNOR'S OFFICE REPORTED NO COMMENT
-
- ☐
- COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
-
- ☐
- NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☒ OTHER, AS SPECIFIED:Sent to Governor's Office this date. Comments,
if any, will be forwarded upon receipt.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Linda K. Wertz

13. TYPED NAME:

Linda K. Wertz

14. TITLE:

State Medicaid Director

15. DATE SUBMITTED:

March 1, 2002

16. RETURN TO:

Linda K. Wertz
State Medicaid Director
Post Office Box 13247
Austin, Texas 78711**FOR REGIONAL OFFICE USE ONLY**

17. DATE RECEIVED:

MARCH 6 2002

18. DATE APPROVED:

May 16, 2002

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

January 1, 2002

20. SIGNATURE OF REGIONAL OFFICIAL:

Melissa C. Crawford

21. TYPED NAME:

CALVIN G. CLINE

22. TITLE:

ASSOCIATE REGIONAL ADMINISTRATOR
DIV OF MEDICAID AND STATE OPERATIONS

23. REMARKS:

Attachment to HCFA-179 for Transmittal No. 02-01, Amendment 620
corrected per Christina Peeples. (05-16-02 E. Williams)

Attachment to HCFA-179 for
Transmittal No. 02-01, Amendment 620

Number of the
Plan Section or Attachment

Attachment 4.19-B

Page 6(f)

Page 35

Appendix 1 to Attachment 3.1-A

Page 52

Page 52a

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Appendix C-1 to Supp. 2 to Attach 3.1-A

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Appendix C-2 to Supp.2 to Attach. 3.1-A

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Page 7

Appendix E-1 to Supp.2 to Attach. 3.1-A

Page 1

Number of the Superseded
Plan Section or Attachment

Attachment 4.19-B

New

Same (91-30)

Appendix 1 to Attachment 3.1-A

Same (97-13)

Same (91-33)

Appendix 1 to Attachment 3.1-B

Same (97-13)

Same (91-33)

Appendix C-1 to Supp.2 to Attach. 3-1A

Same (92-21)

Same (92-21)

Appendix C-2 to Supp.2 to Attach. 3.1-A

Same (91-30)

New

Appendix E-1 to Supp.2 to Attach. 3.1-A

Same (91-30)

XI. Consumer Directed Services

- (1) Consumer Directed Services (CDS) are made available to eligible clients in the Primary Home Care (PHC) program.
- (2) The sum of the contracted provider payment amount and the payment amount for CDS must not exceed the hourly attendant compensation enhancement participant payment rate made to contracted providers not participating in CDS. The contracted provider payment amount is determined by modeling the estimated costs to carry out the responsibilities of the contracted provider under CDS. The payment amount for CDS is determined by subtracting the contracted provider payment amount from the attendant compensation enhancement participant payment rate made to contracted providers not participating in CDS.
- (3) The contracted provider payment amount is paid to the contracted provider as a percentage of the amount expended and claimed for CDS to the state for reimbursement.
- (4) Clients must expend for CDS an average hourly compensation amount for attendants equal to the calculated attendant compensation rate component of the rate per hour of service for contracted providers not participating in CDS divided by 1.07. Compensation includes salaries and wages, payroll taxes, workers' compensation, employee benefits/insurance, and mileage reimbursement.
- (5) For clients funded under section 1929(b) of the Social Security Act, the hourly payment rate for annual and other assessments conducted by a Registered Nurse (RN) in CDS is determined in accordance with Attachment 4.19-B Page 35.

SUPERSEDES: NONE - NEW PAGE

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DATE EFF	<u>01-01-02</u>	
HCFA 179	<u>TX-02-01</u>	

42. Reimbursement Methodology for Primary Home Care Services - Home and Community Care for Functionally Disabled Elderly Individuals §1905 (a) (23)

- (1) Personal Care Services. Payment for covered services will be determined by the reimbursement methodology for Primary Home Care (personal care) in Attachment 4.19-B Pages 6-6 (f). Costs will be aggregated into one database and the same rate will be used for personal care services under the §1115 waiver referenced in §1929 (b) (2) (B) and will ensure equal treatment of all recipients receiving personal care.
- (2) Assessments by Registered Nurse. For clients whose personal care is funded under §1929 (b) that participate in consumer directed services (CDS), the hourly payment rate for annual and other assessments conducted by a Registered Nurse (RN) is determined by using historical costs of delivering similar RN services in other Medicaid programs.
 - (A) Allowable historical expenses to provide RN services are projected, excluding depreciation and mortgage interest, per unit of service from each provider agency's reporting period to the next ensuing payment rate period in accordance with VIII, Attachment 4.19-B Page 6 (a).
 - (B) To determine the projected cost per unit of service for each contract, the total projected allowable costs are divided by total units of service in order to calculate the projected cost per unit of service for RN services.
 - (C) Projected allowable costs for RN services per unit of service for each contract and each contract's corresponding units of service are rank ordered from low to high. The weighted median cost component for RN services is multiplied by 1.044 to calculate the recommended payment rate.

SUPERSEDES: TN- 91-30

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24.f Personal Care Services

Subject to the specifications, conditions, and limitations established by the **Texas Department of Human Services**, payments will be made for Personal Care Services as defined at 42 CFR 440.167 when provided to eligible recipients by providers who are approved by and under contract with the **Texas Department of Human Services**, or by attendants who are employed directly by the recipient under **Consumer Directed Services**.

- A. Prior approval to provide services is required in all cases.
- B. Providers of Personal Care Services must meet qualifications established by the **Texas Department of Human Services**.
- C. Services are limited to the lesser of:
- no more than fifty (50) hours per week per recipient,
 - the number of hours per week per recipient that may be provided within the limit of the cost of the average Medicaid nursing facility rate for recipients whose assessed medical needs can be met by long-term, non-technical medical observation and authorized assistance with the activities of daily living which are necessary because of a chronic medical condition complicated by functional limitations. *
- D. As a condition for payment, Personal Care Services must be the primary need and may not be substituted for services needed to bring about improvement of an acute medical condition.
- E. The range of Personal Care Services to be provided is established by an assessment of the recipient's medical and functional needs. Reassessment of the functional need and authorization for continued Personal Care Services are required at least every twelve months.
- F. A recipient's home is the recipient's full time abode but does not include a hospital, nursing facility, or any other setting in which nursing services or Personal care services are already available or could be made available by family members or sources outside the Personal Care Program. **Personal care services may be provided in alternate locations outside the home, but not in locations where personal care services may be already available to the recipient.**

* Durational, dollar, and quantity limits are waived for recipients of EPSDT services. Services allowable under Medicaid laws and regulations may be covered when medically necessary for these recipients.

SUPERSEDES: TN- 97-13

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24.f Personal Care Services (Continued)

- G. A family member is defined as an individual with a duty under the Texas Family Code, Sections **2.501** and **151.001**, to support the recipient, i.e., spouse for spouse and parent for minor child.
- H. The provider must maintain records and submit reports and other information specified by the **Texas Department of Human Services**.
- I. **Personal care services are supervised by either a registered nurse licensed to practice nursing in the State, or by a non-nurse, as established by the registered nurse assessor for personal care services when provided by an agency under contract with the Texas Department of Human Services to provide personal care services. Personal care services are supervised by the recipient/legal guardian in the Consumer Directed Services component of personal care services.**
- J. **Consumer Directed Services (CDS) gives the recipient/legal guardian support to be the employer of record for their personal care services. The recipient chooses, directs, and manages their personal care services. To contract for CDS, providers must have an existing contract with the Texas Department of Human Services to provide community care services. CDS providers contract in the recipient's geographic area for the CDS program with the Texas Department of Human Services to provide CDS functions including training and ongoing support on being an employer; handling of employment-related activities, and budgeting for personal care services.**

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24.f. Personal Care Services

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- A. Prior approval to provide services is required in all cases.
- B. Providers of Personal Care Services must meet the qualifications established by the **Texas Department of Human Services**.
- C. Services are limited to the lesser of:
- no more than fifty (50) hours per week per recipient, or
 - the number of hours per week per recipient that may be provided within the limit of the cost of the average Medicaid nursing facility rate. Services are for recipients whose assessed medical needs can be met by long-term, non-technical medical observation and authorized assistance with the activities of daily living which are necessary because of a chronic medical condition complicated by functional limitations. *
- D. As a condition for payment, Personal Care Services must be the primary need and may not be substituted for services needed to bring about improvement of an acute medical condition.
- E. The range of Personal Care Services to be provided is established by an assessment of the recipient's medical needs. Reassessment of the functional need and authorization for continued Personal Care Services is required at least every twelve months.
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24.f Personal Care Services (Continued)

- G. A family member is defined as an individual with a duty under the Texas Family Code, Sections **2.501** and **151.001**, to support the recipient, i.e., spouse for spouse and parent for minor child.
- H. The provider must maintain records and submit reports and other information specified by the **Texas Department of Human Services**.
- I. **Personal care services are supervised by either a registered nurse licensed to practice nursing in the State, or by a non-nurse, as established by the registered nurse assessor for personal care services when provided by an agency under contract with the Texas Department of Human Services to provide personal care services. Personal care services are supervised by the recipient/legal guardian in the Consumer Directed Services component of personal care services.**
- J. **Consumer Directed Services (CDS) gives the recipient/legal guardian support to be the employer of record for their personal care services. The recipient chooses, directs, and manages their personal care services. To contract for CDS, providers must have an existing contract with the Texas Department of Human Services to provide community care services. CDS providers contract in the recipient's geographic area for the CDS program with the Texas Department of Human Services to provide CDS functions including training and ongoing support on being an employer; handling of employment-related activities, and budgeting for personal care services.**

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SUPPLEMENT 2 TO ATTACHMENT 3.1-A
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Standards for family members who provide personal care services differ from those for other providers of this service. The standards for personal care services provided by family members are found in Appendix C-2.

2. Personal care providers will be supervised by:

_____ a registered nurse, licensed to practice nursing in the State

_____ case managers

XXX other (specify): **either a registered nurse licensed to practice nursing in the State, or a non-nurse, as established by the registered nurse assessor for personal care services provided by a contracted agency. Personal care providers in the Consumer Directed Services component of personal care services are supervised by the recipient/legal guardian.**

3. Minimum frequency or intensity of supervision:

_____ as indicated in the client's ICCP

XXX other (specify): **At least every twelve months for personal care services provided by a contracted agency; or as often as deemed necessary by the recipient, with a written evaluation at least every twelve months, in the Consumer Directed Services component of personal care services.**

4. Personal care services are limited to those furnished in a recipient's home.

_____ Yes XXX No

5. Limitations (check one):

_____ This service is provided to eligible individuals without limitations on the amount or duration of services furnished.

XXX The State will impose the following limitations on the provision of this service (specify):

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no more than fifty (50) hours per week per recipient, or

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- the number of hours per week per recipient that may be provided within the limit of the cost of the average Medicaid nursing facility rate. Services are for recipients whose assessed medical needs can be met by long-term, non-technical medical observation and authorized assistance with the activities of daily living which are necessary because of a chronic medical condition complicated by functional limitations.
- **Consumer Directed Services (CDS) gives the recipient/legal guardian support to be the employer of record for their personal care services. The recipient chooses, directs, and manages their personal care services. To contract for CDS, providers must have an existing contract with the Texas Department of Human Services to provide community care services. CDS providers contract in the recipient's geographic area for the CDS program with the Texas Department of Human Services to provide CDS functions including training and ongoing support on being an employer; handling of employment-related activities, and budgeting for personal care services.**

- d. _____ Nursing care services provided by or under the supervision of a registered nurse. Nursing services listed in the ICCP which are within the scope of State law, and are provided by a registered professional nurse, or licensed practical or vocational nurse under the supervision of a registered nurse, licensed to practice in the State. Standards for the provision of this service are included in Appendix C-2.

Check one:

1. _____ This service is provided to eligible individuals without limitations on the amount or duration of services furnished.

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2. _____ The State will impose the following limitations on the provision of this service (specify):

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d. PROVIDER REQUIREMENTS SPECIFIC TO EACH SERVICE

In addition to the licensure and certification standards cited in Appendix, the State will impose the following qualifications for the providers of each service –

SERVICE	MINIMUM QUALIFICATIONS OF PROVIDERS
HOMEMAKER	
HOME HEALTH AIDE	
PERSONAL CARE Applies to attendants of both the personal care agency and the Consumer Directed Services (CDS) recipient/legal guardian.	The attendant must be 18 years of age or older; cannot be a: (1) spouse of the client, (2) parent of a client that is a minor, (3) person with a legal duty to support the client, (4) person already available to meet the needs of the client, or (5) person who is not competent, dependable, or capable of performing the work; attendant must be oriented to the services to be provided by an RN, or by the recipient/legal guardian in CDS , and/or meet other testing or license requirements that the State may require. New hires must pass a criminal background check.
ATTENDANT CARE	
NURSING CARE	
RESPIRE CARE IN HOME	
FACILITY BASED	
FAMILY TRAINING	
ADULT DAY CARE	
DAY TREATMENT / PARTIAL HOSPITALIZATION	
PSYCHOSOCIAL REHABILITATION	
CLINIC SERVICES	
CHORE SERVICES	
HABILITATION GENERAL STANDARDS	
RESIDENTIAL HABILITATION	

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SUPERSEDES TN- 91-30

CONSUMER DIRECTED SERVICES

Consumer Directed Services (CDS) gives the recipient/legal guardian support to be the employer of record for their personal care services. The recipient chooses, directs, and manages their personal care services. To contract for CDS, providers must have an existing contract with the Texas Department of Human Services to provide community care services. CDS providers contract in the recipient's geographic area for the CDS program with the Texas Department of Human Services to provide CDS functions including training and ongoing support on being an employer; handling of employment-related activities, and budgeting for personal care services.

SUPERSEDES: NONE - NEW PAGE

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APPENDIX E-1 INDIVIDUAL COMMUNITY CARE PLAN (ICCP)

- a. A written Individual Community Care Plan (ICCP) will be developed for each individual who has been determined, on the basis of a comprehensive functional assessment performed in accordance with Appendix D, to be a functionally disabled elderly individual, according to the criteria set forth in Appendices A and B.
- b. The ICCP will be established and periodically reviewed and revised, by a Qualified Community Care Case Manager after a face-to-face interview with the individual or primary caregiver.
- c. The ICCP will be based on the most recent comprehensive functional assessment of the individual conducted according to Appendix D.
- d. The ICCP will specify, within the amount, duration and scope of service limitations set forth in Appendix C, the home and community care to be provided to such individual under the plan.
- e. The ICCP will indicate the individual's preferences for the types and providers of services.
- f. The ICCP will specify home and community care and other services required by such individual. (Check one):
1. _____ Yes 2. XXX No
- g. The ICCP will designate the specific Medicaid vendor (who meets the qualifications specified in Appendix C-2 [a], **unless in Consumer Directed Services where the recipient/legal guardian is the employer of record**, and whose providers meet the qualifications in Appendix C-2 [d]) which will provide the home and community care. (Check one):
1. XXX Yes 2. _____ No
- h. Neither the ICCP, nor the State shall restrict the specific persons or individuals (who meet the requirements of Appendix C-2) who will provide the home and community care specified in the ICCP.

SUPERSEDES TN- _____

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